



CLARKE F. AHLERS, P.C.

ATTORNEY-AT-LAW

ATHOLTON SQUARE  
10450 SHAKER DRIVE, SUITE 111  
COLUMBIA, MARYLAND 21046

TELEPHONE: 410.740.1444  
FACSIMILE: 410.740.0048

24 August 2022

Via ECF

Honorable Ellen L. Hollander  
U.S. District Judge  
U.S. District Court for the District of Maryland  
101 W. Lombard Street  
Baltimore, MD 21202

Re: Prosecutor's recent discussion about motions' hearing dates.

Dear Judge Hollander:

On July 8, 2022 (ECF 124), Your Honor ordered the prosecutors to file the motion *in limine* concerning the validity of the defendant's proposed defense by the close of business on July 22, 2022.<sup>1</sup> Your Honor required the defense opposition by August 5, 2022, and the government's reply by August 19, 2022.

On July 8, 2022 (ECF 124), Your Honor scheduled a motions hearing as to the "Brady"/discovery motion (ECF 100) for August 29, 2022 at 10:00 a.m.

On July 8, 2022 (ECF 124), Your Honor scheduled a motions hearing on the motion *in limine* (Bosshardt email / closeout) on August 30, 2022 at 10:00 a.m.

The following then occurred. On July 20, 2022, Mr. Gray (for the 18<sup>th</sup> time since this case began) asked for an extension of time. This time it was to complete the motion *in limine*. Although Mr. Gray had been on notice of the completion date for 12 days, he promised to write the Court with an alternative date so he "didn't have to worry about scrambling to get that done in the next two days." ECF 131, Tr. of Motions Hearing July 20, 2022 at p. 198.

---

<sup>1</sup> This was in reference to Mr. Gray's contention that the defendant should not be allowed to present evidence of the Bosshardt email or any closeout of the contract as a defense at trial. *See* Tr. of July 8, 2022 teleconference at 9. Also, please recall that the government was allowed to call witnesses, including Bosshardt, out of order for the convenience of the witnesses on July 14, 2020 related to the anticipated motion *in limine*. (ECF 124).

On July 25, 2022, the Court ordered that “simultaneous submissions” be filed on August 23, 2022. See ECF 139, Tr. of Motions Hearing July 25, 2022 at pp. 165-67.

Between July 20, 2022 and August 22, 2022, Mr. Gray did not write to the Court. The prosecutors did not file a motion *in limine* regarding Bosshardt / closeout.

On August 22, 2022, Mr. Gray wrote to the Court asking for clarification. In this communication, ECF #142, Mr. Gray misstates the reason for the August 30<sup>th</sup> hearing as “on the government’s motion *in limine* relating to the opinion of the government’s proposed expert Mr. Stein.” Mr. Gray knows or should know that the Hearing on Mr. Stein’s opinions was set on July 25, 2022 for September 7, 2022. ECF 133 (Paperless Order); Tr. of Motions Hearing July 25, 2022 at p. 167 (ECF 139). Also, the prosecutors have never filed a motion *in limine* about the opinions of Charles Stein. The prosecutors filed a “Cross-Motion to Exclude Defense Expert Charles Stein.” (ECF 54).

On August 23, 2022, defense counsel filed “McComber’s Re-Assessment of Proposed Expert Opinions of Charles Stein following Motion’s Hearing Testimony.” (ECF 143). Although it was filed on time, it was rejected because Exhibit 1 [the Chart of Proposed Opinions] was printed horizontally on paper (to conform to the prior chart prepared by counsel). In any event, defense counsel has reprinted Exhibit 1 and will re-file the motion immediately after filing this letter requested by chambers.

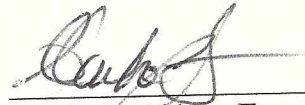
On August 23, 2022, the government did not file its “simultaneous” position on Stein’s opinions. It was filed today, August 24, 2022. The government’s late submission may have been harmless if the government was not served with defense counsel’s August 23, 2022 filing. Otherwise, defense counsel is prejudiced by the government’s intentionally late filing..

The government has indicated by email that it wishes to move the hearing on Brady scheduled for August 29, 2022 and to call a witness. I have talked to my client Ms. McComber about this matter. We both share a concern. Having been through this already, defense counsel on behalf of the Defendant respectfully requests that the Court keep the August 29, 2022 motion’s hearing date on the Brady/discovery issue. If the Brady hearing carries over to a second day for any reason it will not be necessary to reschedule day two as Tuesday, August 30, 2022 is already on the docket for the now unnecessary motion *in limine* (Bosshardt / closeout).

I believe this answers the questions the Court wanted my opinion on. I will now refile the proposed expert opinions *and* I am send separate correspondence to the Court today requesting that the Contracting Officer and Contracting Officer Representatives Files be brought to Court along with the Government’s witness on Monday, August 29<sup>th</sup> in order to facilitate a reasonable resolution of what has been reviewed and what has not been reviewed by the prosecutors, or their agents.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Clarke E. Ahlers", is written over a horizontal line.

Clarke E. Ahlers, Esq.

cc: Prosecutors via ECF